*ACT No. IV OF 1857.

[THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857.]

[*9th February 1857*]

Repealed in part, by Act 14 of 1870;
" " " " .. 16 of 1874;
" " " " " 12 of 1876;
" " " " " 12 of 1891;
Amended by Bom. 1 of 1932;
" " " 14 of 1933.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 6 of 1938.
§Amended by Bom. 17 of 1945.
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to amend the law relating to the duties payable on tobacco and the retail sale and warehousing thereof in the Town of Bombay.

WHEREAS it is expedient to amend the law relating to the duties payable on tobacco and the retail sale and warehousing of that article in the town of Bombay; Preamble.

It is hereby enacted as follows:—

1. [*Repeal of enactments.*] *Rep. Act XIV of 1870.*

2. All tobacco (except such small quantities as are hereinafter mentioned) imported from any place into the town of Bombay and intended for consumption therein shall be liable to a duty of [1][thirty rupees] per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the municipal duty [2]* * * * * Municipal duty on tobacco for consumption in Bombay.

3. The said municipal duty may be paid, at the option of the importer, either on the importation of the tobacco or after it has been warehoused as hereinafter provided. Municipal duty when payable.

[3]3A. The Commissioner of Excise may appoint public warehouses and, on payment of such fees and subject to such terms and conditions as may be prescribed by him by general or special order, may license warehouses, wherein tobacco may be warehoused without payment of the municipal duty on the importation thereof and may cancel any such appointment or licence. Power of the Commissioner of Excise to appoint public warehouses and to license warehouses.

4. If the said municipal duty is not paid on importation, the tobacco shall be warehoused in a public or licensed warehouse [4]* * * *, and the importer shall pay such duty on the said tobacco on its removal from the warehouse for consumption in the said town. Duty not paid on importation to be paid on removal from warehouse for consumption.

When tobacco so warehoused is re-exported to any place beyond the limits of the said town, the whole of the said municipal duty shall be remitted. Remission of duty on re-exportation.

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* This Act has been suspended by Bom. 11 of 1945, read with Bom. 1 of 1948, s. 2.

§ The amendments made by Bom. 17 of 1945, have been saved by Bom. 52 of 1947, s. 2. proviso.

[1] The words "thirty rupees" were substituted for the words "seven rupees and eight annas" by section 3 of Bom. 1 of 1932 which Act came into force on the 19th day of March 1932 and which shall remain in force for 10 years in the first instance but which Government may extend for a further period not exceeding 10 years by a notification in the Official Gazette.

[2] The words "and such duty shall be leviable in addition to any customs-duty prescribed by law" were repealed by the Repealing and Amending Act, 1891 (12 of 1891).

[3] Section 3A was inserted by section 2 of Bom. 14 of 1933.

[4] The words and figures "within the meaning of Act XXV of 1836" were repealed by the Repealing Act, 1874 (16 of 1874).

Drawback allowable on re-export.

[1]**4A.** When tobacco removed from a public or licensed warehouse for consumption in the said town on payment of the municipal duty under section 4, is re-exported to any place beyond the limits of the said town, seven-eights of such duty paid shall be re-paid as drawback in the manner and subject to such conditions as may be prescribed by rules made by the Commissioner of Excise in this behalf.

Bombay a warehousing port for tobacco.

5. The port of Bombay shall [2]* * * * * be held to be a warehousing port [3]* * * so far as regards the warehousing of tobacco [4]* * * * * *

Powers for collecting and enforcing payment of duty.

6. The Commissioner of Customs, Salt and Opium, and officers of customs shall have all the same powers and authorities for collecting and enforcing payment of the said municipal duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of duties of customs.

Tobacco not to be imported otherwise than by sea. Landing places to be prescribed.

7. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing-places than such as may from time to time be prescribed by the Government [5]* *

Exemption from duty.

8. The foregoing provisions of this Act shall not be applicable to such small quantities of tobacco (not exceeding in weight [6][half a seer] of eighty tolas to the seer) as are intended for the private consumption of the importer.

Permit necessary for removal of tobacco.

9. It shall not be lawful to remove any tobacco from one place to another within the said town, nor to carry or convey the same on any thoroughfare in the said town, nor to carry the same in any vessel or boat of less than forty khandis burthen in any of the creeks or waters adjacent to the said town, without a permit from the Commissioner of Customs, Salt and Opium, which permit shall be in the form of Schedule A to this Act annexed, or to the like effect;

any such permit shall be in force only between sunrise and sunset of the day for which it is granted:

Proviso.

Provided always, that it shall be lawful to convey without a permit any tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of tobacco, not exceeding in weight [6][half a seer] of eighty tolas to the seer, for personal or domestic use.

No permit for removal from warehouse of less than a bale.

10. No permit shall be granted for the removal from warehouse of any quantity of tobacco less than an entire bale or package:

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[1] Section 4A was inserted by section 3 of Bom. 14 of 1933.

[2] The words "after the passing of this Act", were repealed by the Repealing Act, 1876 (12 of 1876).

[3] The words and figures "within the meaning of Act XXV of 1836" were repealed by the Repealing Act, 1870 (14 of 1870).

[4] The words "and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of tobacco in the said town. The import duty in the said Act mentioned shall, as to tobacco, include the municipal duty leviable under this Act" were repealed by Acts 12 of 1876 and 12 of 1891.

[5] The words "of Bombay" were omitted by the Adaptation of Indian Laws Order in Council.

[6] The words "half a seer" were substituted for the words "four seers" by s. 4 of Bom. 1 of 1932 which Act came into force on the 19th day of March 1932 and which shall remain in force for 10 years in the first instance but which Government may extend for a further period not exceeding 10 years by a notification in the Official Gazette.

Provided that, when tobacco is to be removed for consumption in the said town, the Commissioner of Customs, Salt and Opium, may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste; and the said refuse or waste may be re-exported, under the rules for the re-export of tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner. Proviso

11. It shall not be lawful for any person to sell or offer for sale by retail any tobacco [1][in the City of Bombay] without a license from the Commissioner of Customs, Salt and Opium, or other officer duly empowered by [2][the Provincial Government] in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. [3][Such license shall be subject to such terms and conditions as may be prescribed by rules made by the Provincial Government in this behalf.] License for retail sale of tobacco.

[4][Such fee as may be fixed by rules made by the Provincial Government in this behalf shall be levied for every such license, subject to the following maxima :—

	Rs.
(*a*) Superior tobacco	50
(*b*) Inferior tobacco	25

For the purposes of this section the Provincial Government may also by rules made in this behalf specify the varieties of tobacco which shall be classed as Superior and Inferior.]

12. Any sale of tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act. What to be deemed retail sale.

13. It shall not be lawful for any licensed retail dealer in tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail dealer in tobacco, together with the number of his license, shall be written or painted in English, Gujarati and Marathi, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on. Retail sale to be only at place mentioned in license. Name and number to be affixed to shop.

14. Every retail dealer in tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt and Opium, or other officer as aforesaid a separate return for each shop or place of sale for which he holds a license, showing the quantity of tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom, and the dates on which, he received it, and the stock remaining at the close of such month; Monthly returns of stock to be made by retail dealers.

and any retail dealer who refuses or neglects to make such return or makes a false return shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

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[1] The words "in the City of Bombay" were substituted for the words "in the said town" by s. 9 of Bom. 17 of 1945 and the amendment has been continued in operation by the proviso to s. 2 of Bom. 52 of 1947.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were added by s. 2 (*1*) of the Bombay Tobacco (Amendment) Act, 1938 (Bom. 6 of 1938).

[4] This portion was substituted for the original portion, *ibid* s. 2 (*2*).

Retail dealer to enter in book weight, etc., of tobacco received.

15. Every retail dealer in tobacco shall, on the same day on which he shall receive any tobacco, into any such shop or place of sale, enter in a book to be kept for that purpose the weight of such tobacco, the day on which he receives the same, and the name of the person from whom, and the place from which, he receives it;

Inspection of book.

and such book shall be open to the inspection of the Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same;

and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit;

and any retail dealer who neglects or refuses to comply with the provisions of this section shall, for every offence, be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred rupees.

Search-warrant.

16. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him

to enter and search between sunrise and sunset any building or place to be specified in the warrant in which tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, which information shall be taken down in writing, that tobacco is deposited contrary to the provisions of this Act, and

to seize and to take away from thence any tobacco or other articles subject to confiscation under this Act.

Power to arrest and detain; to search vehicles, etc.

17. The Commissioner of Customs, Salt and Opium, or other officer as aforesaid, or any public officer authorised by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any tobacco liable to confiscation under this Act, and may detain and search any vessel or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such tobacco.

Confiscation of tobacco illegally imported, removed, etc.

18. All tobacco imported into the said town or removed from one place to another or kept within the said town, or found in the possession of any person in the said town selling or offering any portion thereof for sale contrary to the provisions of this Act, and

every vessel in which such tobacco is contained, and

every vehicle, boat or animal employed with the consent and knowledge of the owner or his servant in conveying the same,

shall be liable to confiscation:

Mitigation of penalty.

Provided always that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation; and

Enforcement of fine.

every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

Penalty for illegal importation, removal, sale or possession. Revocation of license.

19. Any person who shall illegally import, remove or sell in the said town any tobacco, or who shall knowingly have in his possession any tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such tobacco; and if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt and Opium, or other officer as aforesaid.

Levy of fines and adjudication and sale of confiscations.

20. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the town of Bombay.

Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

[1]**120A.** Rules made under this Act shall be subject to previous publication. Publication of rules.

[1]**120B.** The powers and authorities conferred on the Commissioner of Customs, Salt and Opium, and the officers of customs under the provisions of this Act are hereby conferred on and shall be exercised respectively by the Commissioner of Excise and such officers as Government may from time to time by general or special order appoint in this behalf; and The Commissioner of Excise and other officers appointed by Government to exercise powers and perform duties of the Commissioner of Customs, Salt and Opium, and Customs Officers.

the duties imposed on the Commissioner of Customs, Salt and Opium, and the officers of customs under the provisions of this Act are hereby imposed on and shall be performed respectively by the Commissioner of Excise and the officers appointed by Government;

and references in this Act to the Commissioner of Customs, Salt and Opium, and the officers of customs shall be deemed references to the Commissioner of Excise and the officers appointed by Government respectively.

21. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction:— Interpretation clause.

the words "town of Bombay" shall include all places within the Islands of Bombay and Kolaba;

words importing the singular number shall include the plural number and words importing the plural number shall include the singular number;

words importing the masculine gender shall include females;

[2]the words "the Commissioner of Excise" shall mean the officer appointed by Government for the time being to be the Commissioner of Excise.

[3]**22.** In this Act "Government" means so long as the municipal duty is, by virtue of [4][article 277 of the Constitution] levied and collected by the [5][State] Government, that Government, and thereafter the Central Government. Meaning of Government.

SCHEDULE A.

FORM OF PERMIT. [6]

No.

A. B. has been permitted to remove from (*Custom-house, or licensed warehouse, or Shop No. situated in Kalbadevi Street, to warehouse or shop No. in Bazar Street*) the under-mentioned quantity of tobacco between sunrise and sunset on the day of in the year

(Signed)
Commissioner of Customs, Salt and Opium.

[1] Sections 20A and 20B were inserted by s. 4 of Bom. 14 of 1933.
[2] This paragraph was added by s. 5 of Bom. 14 of 1933.
[3] Section 22 was inserted by the Adaptation of Indian Laws Order in Council.
[4] These words and figures were substituted for the words and figures "section 143 (2) of the Government of India Act, 1935" by the Adaptation of Laws Order, 1950.
[5] This word was substituted for the word "Provincial", *ibid.*
[6] *See* s. 9, *supra.*